



AF/18

PATENT
ATTORNEY DOCKET NO. 053933-5008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Ichiro MORISHITA, *et al.*) Confirmation No: 5464
Application No.: 09/821,738) Group Art Unit: 2655
Filed: March 30, 2001) Examiner: G. Patel
For: DYNAMICALLY CONTROLLED) Mail Stop AF
DIFFRACTION GRATING)
(As Amended))

Commissioner for Patents
U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop AF
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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Sir:

**NOTICE OF APPEAL TO THE BOARD OF
PATENT APPEALS AND INTERFERENCES**

Applicants hereby appeal to the Board of Patent Appeals and Interferences from the decision of the Examiner's **FINAL** rejection dated March 31, 2004 of **claims 1-8**.

1. Extension of Time

[X] Applicants petition for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

<u>Total Months Requested</u>	<u>Fee for Extension</u>	<u>[Fee for Small Entity]</u>
[] one month	\$ 110.00	\$ 55.00
[] two months	\$ 420.00	\$210.00
[X] three months	\$ 950.00	\$475.00
[] four months	\$ 1,480.00	\$740.00

[] Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

10/01/2004 CCHU1 00000186 500310 09821738
01 FC:1253 950.00 DA
02 FC:1401 330.00 DA



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Application No.: 09/821,738

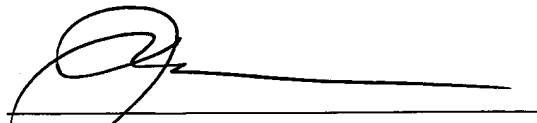
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- ☐ An extension for ____ month has already been secured and the fee paid
- ☐ A check including the cost of \$_____ to cover the extension of time fee is enclosed.
- ☒ The Commissioner is authorized to charge necessary fees for such extension of time to Deposit Account No. 50-0310.
2. Notice of Appeal Fee - 37 C.F.R. § 1.17(b)
- ☒ The Appeal fee of **\$330.00** is to be charged to Deposit Account No. 50-0310.
- ☒ The Commissioner is authorized to charge **\$1,280.00** for the Notice of Appeal Fee of **\$330.00** and the three-month extension of time fee of **\$950.00** to Deposit Account No. 50-0310.
3. Constructive Petition
- ☒ **Except** for issue fees payable under 37 C.F.R. §1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §1.16 and §1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. 1.136(a)(3).

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

By:


Sunwoo Lee
Reg. No. 43,337

Dated: September 30, 2004

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